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DUKE W. YEE YEE & ASSOCIATES, P.C. P.O. BOX 802333 DALLAS, TX 75380			EXAMINER FADOK, MARK A	
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UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte KAZUHIRO YABUTA,
MASAAKI ISHIBASHI and TAKASHI ISHII

Appeal 2007-1930
Application 09/900,265
Technology Center 3600

Decided: January 30, 2008

Before HUBERT C. LORIN, ANTON W. FETTING, and
JOSEPH A. FISCHETTI, *Administrative Patent Judges*.

JOSEPH A. FISCHETTI, *Administrative Patent Judge*.

DECISION ON APPEAL

This is an appeal under 35 U.S.C. §§ 6(b) and 134(a) from the final rejection of claims 6-9, 16 and 17.

Claims 6-9, 16, and 17 stand rejected as being anticipated by Fox under 35 U.S.C. § 35 U.S.C. § 102 (e).

Representative claim 6 reads as follows:

6. A commodity purchasing method through a network, comprising the steps of:

receiving a connection request from a device;

determining whether the connection request includes an identifier, wherein the identifier corresponds to an identification code of a cellular phone and wherein the identifier identifies that the connection request is from a cellular phone;

in response to the connection request including the identifier, performing the following steps:

storing the identifier and user status information associated with the identifier in a database contained in a system for receiving the connection request; and

executing session control using the identifier and the user status information; and

in response to the connection request not including the identifier, executing session control for the device using history information that is communicated between the system and the device.

The reference set forth below is relied upon as evidence of anticipation:

Fox	US 6,421,781	July 16, 2002
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In addition to the prior art cited by the Examiner, we also refer to the following additional prior art.

Appellants' Admitted Prior Art (Specification 1:7-6:13)

Claims 6 and 16 are the sole independent claims from which all dependent appealed claims depend. Claims 1 and 16 stand rejected under 35 U.S.C. § 102 (e) as being anticipated by Fox.

Claims 6 and 16 require:

...in response to the connection request not including the identifier, executing session control using history information that is communicated between a system and the device.

We interpret this phrase as requiring a request, not otherwise including an identifier, to cause execution of the session control using history information that is communicated between a system and the device. The Specification describes “history information” in the following context:

If the EC server determines that no identifier is contained at step 803, it assumes that the HttpReq is sent from a computer 7 and executes initialization, TRANS INIT(Cookie), for performing session control using history information such as a cookie at step 804. (Specification 18:2-6)

Thus, claims 6 and 16 require history information, which has been established between the system and device, such as a cookie, to cause execution of the session control where no mobile device identifier is found.

In reply to this limitation, the Examiner noted the following passage in Fox:

The communication protocol of the World Wide Web (WWW) on the Internet 104 is the well known HyperText Transport Protocol (HTTP) or HTTPS, a secure version of HTTP. HTTP runs on top of the Transport Control Protocol (TCP) and the Internet Protocol (IP). HTTP is [sic, is] used to control the connection of a well known HyperText Markup Language Web browser, or HTML Web browser in PC 110, to Web server 112, and the exchange of information therebetween. (Fox, col. 4 ll. 24-32)

We cannot find that the requirement of claims 6 and 16 of “in response to the connection request not including the identifier, executing session control using history information that is communicated between a system and the device” is met by Fox with sufficient specificity to support sustaining a rejection under 35 U.S.C. § 102 (e). “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, (Fed. Cir. 1987), *cert. denied*, 484 U.S. 827 (1987).

The decision of the Examiner is reversed.

REMAND

We also remand this application to the Examiner for consideration of whether a question of patentability arises with respect to claims 6-9, 16 and 17 under 35 U.S.C. § 103(a) given the combination of Fox and the Appellants' Admitted Prior Art (APA).

Fox discloses a server, such as device 202, which provides information accessible to other computing devices on the Internet 104 (Fox, col.5, ll. 27-29). Fox discloses that other such computing devices connected to the Internet can be desktop personal computers (Fox, col. 3, l. 55). It would appear that the server 202 provides information accessible to both computers and mobile devices, and thus receives connection requests from both types of devices.

APA describes using history information, i.e., a cookie, to effect session control where the connection request involved is not from a mobile device (instead, a computer) as required by claims 6 and 16. (Specification 3:5-9)

As to the limitation in claims 6 and 16 of "determining whether the connection request includes an identifier, wherein the identifier corresponds to an identification code of a cellular phone and wherein the identifier identifies that the connection request is from a cellular phone," Fox discloses:

Referring to the table in FIG. 3, a subscriber ID list 302 maintains a list of subscriber IDs of the mobile devices..." (Fox col. 6, ll. 29-30)

The URLs representing the information subscribed to by the user are grouped and maintained in URL table 306. It can be appreciated that subscriber ID list 302 generally maintains a plurality of subscriber IDs, each corresponding to one mobile device...
(Fox, col. 6, ll. 43-49)

Fox would appear to disclose determining an identifier (ID) associated with a mobile device as required by claims 6 and 16 because, in Fox, the IDs in list 302 are grouped together as mobile devices, and any connection request using an ID from this group (302) would be known or identified by the system as being associated with a mobile device based on the group classification.

Thus, Fox and APA appear to show all the claimed steps. There appears to be no evidence of unpredictable results. Under these circumstances, “[t]he combination of familiar elements according to known methods is likely to be obvious when it does no more than yield predictable results.” *KSR Int’l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1739 (2007).

Accordingly, we remand this application to the Examiner to consider whether any of the subject matter of the pending claims would have been obvious to one having ordinary skill in the art at the time of the invention in view of the teachings of Fox in combination with the APA.

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This remand to the Examiner pursuant to 37 CFR § 41.50(a)(1) is made for further consideration of a rejection. Accordingly, 37 CFR § 41.50(a)(2) applies if a supplemental examiner's answer is written in response to this remand by the Board.

REVERSED AND REMANDED

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